

DEPARTMENT OF LABOR AND INDUSTRY

CHAPTER 351

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## Sub-Chapter 1

### Definitions

24.351.101 DEFINITIONS As used in this chapter, the following definitions apply:

(1) "Bureau" means the weights and measures bureau of the Montana department of labor and industry.

(2) "Commercial weighing or measuring device" means:

(a) any weight, measure, weighing or measuring device commercially used to establish:

(i) the size, quantity, extent, area or measurement of quantities, things, produce or articles for distribution or consumption that are offered or sold; or

(ii) any basic charge of payment for services rendered on the basis of weight or measure; and

(b) any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed or installed that its operation affects, or may affect, the accuracy of the device.

(3) "NIST" means the national institute of standards and technology of the United States department of commerce.

(4) "Registered service agency" means any agency, firm, company or corporation that for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial weighing or measuring device, and that voluntarily registers itself as such with the bureau.

(5) "Registered serviceperson" means any individual who for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial weighing or measuring device, and who voluntarily applies for registration with the bureau. (History: 30-12-202, MCA; IMP, 30-12-202, MCA; NEW, 1998 MAR p. 1498, Eff. 6/12/98; TRANS, from Commerce, & AMD, 2005 MAR p. 445, Eff. 4/1/05.)

## Sub-Chapter 2

### Weighing And Measuring Devices

24.351.201 NIST HANDBOOK 44 - SPECIFICATIONS, TOLERANCES AND OTHER TECHNICAL REQUIREMENTS FOR WEIGHING AND MEASURING

DEVICES (1) The bureau, with the advice and counsel of NIST, adopts the specifications, tolerances and requirements for commercial weighing and measuring devices published in NIST Handbook 44, 2005 edition, as the specifications, tolerances and requirements for commercial weighing and measuring devices for the state of Montana with the following exception:

(a) Section 3.31, Vehicle Tank Meters Code, UR.2.2. Ticket Printer; Customer Tickets is not adopted or enforced.

(2) A copy of NIST Handbook 44 can be obtained from the United States Department of Commerce, National Institute of Standards and Technology, National Conference of Weights and Measures, Gaithersburg, Maryland 20899-0001. (History: 30-12-202, MCA; IMP, 30-12-202, 30-12-205, 30-12-401, 30-12-406, 30-12-407, 30-12-408, 30-12-409, MCA; Eff. 12/31/72; AMD, Eff. 6/2/75; AMD, 1982 MAR p. 7, Eff. 1/15/82; AMD, 1998 MAR p. 1498, Eff. 6/12/98; AMD, 1999 MAR p. 68, Eff. 1/15/99; AMD, 1999 MAR p. 1295, Eff. 6/18/99; TRANS, from Commerce, & AMD, 2005 MAR p. 445, Eff. 4/1/05.)

Rules 24.351.202 and 24.351.203 reserved

24.351.204 UNIFORM REGULATION FOR NATIONAL TYPE EVALUATION

(1) The bureau adopts and incorporates by reference the Uniform Regulation for National Type Evaluation, as found in NIST Handbook 130, 2005 edition, and is adopted in its entirety with the following modifications:

(a) in Section 2.3, the term "director" is replaced by the term "bureau chief" and refers to the bureau chief of the bureau;

(b) in Section 4, subsections 3 through 7, insert in all blank spaces the date of January 1, 1999; and

(c) in Section 8, insert in the blank space January 1, 1999, for the effective date for this regulation.

(2) A copy of NIST Handbook 130 can be obtained from the United States Department of Commerce, National Institute of Standards and Technology, National Conference of Weights and Measures, Gaithersburg, Maryland 20899-0001. (History: 30-12-202, MCA; IMP, 30-12-202, MCA; NEW, 1998 MAR p. 1498, Eff. 6/12/98; TRANS, from Commerce, & AMD, 2005 MAR p. 445, Eff. 4/1/05.)

Rules 24.351.205 through 24.351.210 reserved

24.351.211 FEES FOR TESTING AND CERTIFICATION

(1) Special inspection fees are as follows:

(a) units over 5,000 pounds of testing weights, \$2.50 a mile, measured by the distance the bureau's employee travels in connection with the special inspection;

(b) all other units, \$1.25 a mile, as measured by the distance the bureau's employee travels in connection with the special inspection; and

(c) time for testing by inspection, \$75 an hour.

(2) Where fees are not paid within 30 days after the special inspection, the equipment will be sealed and removed

from service by the bureau until such fees have been paid. The bureau will coordinate the special inspections, whenever possible, with other inspection activities in an effort to keep charges as reasonable as possible. (History: 30-12-202, MCA; IMP, 30-12-202, 30-12-203, MCA; Eff. 12/31/72; AMD, Eff. 2/5/74; AMD, 1984 MAR p. 24, Eff. 1/13/84; AMD, 1991 MAR p. 1486, Eff. 8/16/91; AMD, 1993 MAR p. 1501, Eff. 7/16/93; AMD, 1998 MAR p. 1498, Eff. 6/12/98; TRANS, from Commerce, & AMD, 2005 MAR p. 445, Eff. 4/1/05.)

Rules 24.351.212 through 24.351.214 reserved

24.351.215 LICENSE FEE SCHEDULE FOR WEIGHING AND MEASURING DEVICES (1) Measuring device license fees are as follows:

- |  |      |
|--|------|
| (a) each gasoline meter, diesel meter, compressed natural gas dispenser or fuel oil meter with a listed maximum delivery rate of 20 or less gallons per minute (gpm) | \$16 |
| (b) each petroleum vehicle tank meter or stationary petroleum meter with a maximum listed delivery rate of between 130 gpm and 20 gpm                                | 55   |
| (c) each petroleum vehicle tank meter or stationary petroleum meter with a maximum listed delivery of over 130 gpm   | 65   |
| (d) each liquefied petroleum gas (LPG) meter   | 80   |

(2) Weighing device license fees are as provided in 30-12-203, MCA. (History: 30-12-202, 82-15-102, MCA; IMP, 30-12-203, 82-15-105, MCA; NEW, 1993 MAR p. 1501, Eff. 7/16/93; AMD, 1995 MAR p. 2486, Eff. 11/23/95; AMD, 2000 MAR p. 2015, Eff. 7/28/00; TRANS, from Commerce, & AMD, 2005 MAR p. 445, Eff. 4/1/05.)

Rules 24.351.216 through 24.351.220 reserved

24.351.221 WEIGHING DEVICE LICENSE TRANSFER (1) For all licenses administered by the one-stop licensing program, device license transfer is subject to the requirements established in 30-16-302, MCA. For all other licenses administered by the bureau, the following apply:

(a) If ownership of a weighing device changes and the device remains at the same location, the license will transfer to the new owner and remain in effect until December 31 of that year.

(b) If ownership of a weighing device changes and the device is moved to a new location, the new owner will be required to apply for a new license which will expire on December 31 of that year. (History: 30-12-202, MCA; IMP, 30-12-203, MCA; NEW, 1991 MAR p. 1486, Eff. 8/16/91; AMD, 2000 MAR p. 2015, Eff. 7/28/00; TRANS, from Commerce, & AMD, 2005 MAR p. 445, Eff. 4/1/05.)

Rules 24.351.222 and 24.351.223 reserved

24.351.224 ACCESSIBILITY TO STOCK SCALES (1) All stock

scales must be provided with access to the scale having a width at least equal to the width of the scale platform, having a length of at least five feet from the scale platform enclosure, level with the deck of the scale platform and be constructed of concrete.

(2) A pathway must be provided to the scale access such that the test vehicle will not become mired down and such that the test vehicle can be parked in a relatively level position, both horizontally and vertically. The pathway is required to have a width of from 10 to 12 feet and a height clearance of at least 14 feet. This pathway must be continuous to the scale access concrete. All gates in the pathway must be in good working order. (History: 30-12-202, MCA; IMP, 30-12-203, MCA; NEW, 1991 MAR p. 1486, Eff. 8/16/91; TRANS, from Commerce, 2005 MAR p. 445.)

Rules 24.351.225 and 24.351.226 reserved

24.351.227 SCALE PIT CLEARANCE (1) No new installations or replacements of vehicle or livestock scales may be placed in a pit where the clearance from the floor of the pit to the bottom of the I-beams is less than 42 inches.

(2) Scale pits are not required for fully electronic scales unless the pit is necessary for the installation, operation or maintenance of the particular scale.

(3) Electronic scales which do not require a pit for their installation, operation or maintenance must be installed in strict compliance with the manufacturer's specification for each specific model and with the requirements of NIST Handbook 44, 2005 edition.

(4) Scale pits must have concrete walls surrounding the entire pit, substantial in both durability and strength to prevent soil, snow and other materials from entering the pit area and preventing the scale from operating properly. The requirements of this rule will apply only to those scales installed after its adoption. (History: 30-12-202, MCA; IMP, 30-12-202, MCA; Eff. 12/31/72; AMD, 1987 MAR p. 589, Eff. 5/15/87; AMD, 1991 MAR p. 1486, Eff. 8/16/91; AMD, 1998 MAR p. 1498, Eff. 6/12/98; TRANS, from Commerce, & AMD, 2005 MAR p. 445, Eff. 4/1/05.)

### Sub-Chapter 3

#### Packaging And Labeling

24.351.301 NIST HANDBOOK 130 - UNIFORM LAWS AND REGULATIONS (1) The bureau, with the advice and counsel of NIST, adopts the model regulations to provide accurate and adequate information on packages as to the identity and quantity of contents so that purchasers can make price and quantity comparison. The regulations are published in NIST Handbook 130, 2005 edition, part IV, subparts:

(a) A, Uniform Packaging and Labeling Regulation;

(b) B, Uniform Regulation for the Method of Sale of

Commodities; and

(c) C, Uniform Unit Pricing Regulation.

(2) A copy of NIST Handbook 130 can be obtained from the United States Department of Commerce, National Institute of Standards and Technology, National Conference of Weights and Measures, Gaithersburg, Maryland 20899-0001. (History: 30-12-202, MCA; IMP, 30-12-202, MCA; Eff. 12/31/72; AMD, 1979 MAR p. 1181, Eff. 10/12/79; AMD, 1995 MAR p. 2486, Eff. 11/23/95; AMD, 1998 MAR p. 1498, Eff. 6/12/98; TRANS, from Commerce, & AMD, 2005 MAR p. 445, Eff. 4/1/05.)

Rules 24.351.302 through 24.351.310 reserved

24.351.311 RANDOM INSPECTION OF PACKAGES (1) As required by the statutes, the following implements a schedule for the random inspection of packages and commodities kept, offered or exposed for sale at randomly selected inspection sites throughout Montana.

(2) The state is divided into inspection regions and it is anticipated that each inspection region will complete approximately 50 "package lot" inspections per year in random areas throughout the inspection region.

(3) The package inspections shall include all types of commodities as provided for in Title 30, chapter 12, parts 3 and 4, MCA. (History: 30-12-202, 30-12-207, MCA; IMP, 30-12-207, MCA; NEW, 1991 MAR p. 1486, Eff. 8/16/91; AMD, 1995 MAR p. 2486, Eff. 11/23/95; TRANS, from Commerce, & AMD, 2005 MAR p. 445, Eff. 4/1/05.)

Rules 24.351.312 through 24.351.320 reserved

24.351.321 NIST HANDBOOK 133 - CHECKING THE NET CONTENTS OF PACKAGED GOODS (1) The bureau, with the advice and counsel of NIST, adopts the test methods and procedures as published in NIST Handbook 133, fourth edition, as the methods and procedures to be used for determining net weight of packaged commodities for the state of Montana.

(a) A copy of NIST Handbook 133 can be obtained from the United States Department of Commerce, National Institute of Standards and Technology, National Conference of Weights and Measures, Gaithersburg, Maryland 20899-0001. (History: 30-12-202, 30-12-207, 30-12-301, 30-12-302, MCA; IMP, 30-12-202, 30-12-207, 30-12-301, 30-12-302, MCA; NEW, 2005 MAR p. 445, Eff. 4/1/05.)

#### Sub-Chapter 4

##### Petroleum

24.351.401 NIST HANDBOOK 130 - UNIFORM LAWS AND REGULATIONS (1) The bureau, with the advice and counsel of NIST, adopts, except as provided in (2), the regulations concerning fuel specifications and gasoline-oxygenate blends. The regulations are published in NIST Handbook 130, 2005

edition, part IV, subpart G, Uniform Regulation of Engine Fuels, Petroleum Products, and Automotive Lubricants.

(a) A copy of NIST Handbook 130 can be obtained from the United States Department of Commerce, National Institute of Standards and Technology, National Conference of Weights and Measures, Gaithersburg, Maryland 20899-0001.

(2) The following are the minimum antiknock index requirements for the various grades of gasoline sold in Montana and supersede the minimum requirements contained in paragraph 3.2.5, Table 1, p. 137, of Handbook 130:

<u>Term</u>	<u>Minimum Antiknock Index</u>
Premium, Super, Supreme High Test	91
Midgrade, Plus	88
Regular Unleaded with Lead Substitute	87
Regular, Unleaded (alone)	85.5

(History: 82-15-102, MCA; IMP, 82-15-103, MCA; NEW, Eff. 12/6/75; AMD, Eff. 11/26/77; AMD, 1995 MAR p. 2486, Eff. 11/23/95; AMD, 1997 MAR p. 45, Eff. 1/17/97; TRANS, from Commerce, & AMD, 2005 MAR p. 445, Eff. 4/1/05.)

Rules 24.351.402 through 24.351.410 reserved

24.351.411 SAMPLING OF PETROLEUM PRODUCTS (1) All sampling will be done by employees of the bureau. A random sampling of petroleum products of the manufacturer and importer will be made to ensure that proper standards are being met. The cost of testing samples must be paid for by the manufacturer or importer.

(2) On complaint of an individual as to standards of a petroleum product, sampling will be made by employees of the bureau. An investigation will be conducted by the bureau to determine if a test is required for the petroleum product in question. (History: 82-15-102, MCA; IMP, 82-15-107, MCA; Eff. 12/31/72; AMD, Eff. 11/26/77; TRANS, from Commerce, & AMD, 2005 MAR p. 445, Eff. 4/1/05.)

Rules 24.351.412 through 24.351.420 reserved

24.351.421 CHARGES FOR LIQUEFIED PETROLEUM GAS (1) As provided by 82-15-109, MCA, liquefied petroleum gas (LPG) shall be sold by liquid measure or weight as determined with a device licensed by the department. Customer charges for LPG purchase at retail shall be computed only on the basis of the net weight or liquid measure received by the purchaser. For sales of less than five gallons or 20 pounds, the retailer may charge, in addition to the charge for the LPG, a bottle filling service charge. If the retailer chooses to bill for a bottle filling service charge, the additional service charge must be clearly



disclosed. The disclosure of the bottle filling service charge shall consist of the retailer's displaying the additional dollar amount for the filling service and the conditions under which the service fee will be charged. The disclosure shall be displayed in a clear and conspicuous manner on both the dispensing device and on all on-site signs advertising the availability of LPG at the site. Minimum transaction charges based on the size of the customer's LPG container or set at flat or fixed dollar amounts, without regard for the actual quantity of LPG remaining in the customer's container(s), are prohibited. (History: 82-15-102, MCA; IMP, 82-15-109, MCA; NEW, 1991 MAR p. 1486, Eff. 8/16/91; TRANS, from Commerce, 2005 MAR p. 445.)

Rules 24.351.422 through 24.351.424 reserved

24.351.425 RECEIPT TO BE LEFT AT TIME OF DELIVERY

(1) For all wholesale or retail deliveries of petroleum products, including, but not limited to, gasoline, diesel fuel, home heating oil or liquefied petroleum gas (LPG), delivered to remote locations such as on-farm storage tanks, a receipt, either mechanically printed or handwritten, denoting the date and total gallons delivered into the customer's tank shall be left at either the delivery location or at a location specified by the customer unless a prior agreement has been made with that customer. (History: 30-12-301, MCA; IMP, 30-12-407, MCA; NEW, 1999 MAR p. 68, Eff. 1/15/99; TRANS, from Commerce, 2005 MAR p. 445.)

Sub-Chapters 5 through 10 reserved

Sub-Chapter 11

Voluntary Registration

24.351.1101 VOLUNTARY REGISTRATION PROGRAM FOR SERVICEPERSONS AND SERVICE AGENCIES

(1) The bureau operates a voluntary registration program for individuals and entities that have demonstrated an ability to accurately install, service, repair or recondition a commercial weighing or measuring device.

(2) This rule does not preclude or limit the right and privilege of any individual or entity not registered with the bureau to install, service, repair or recondition a commercial weighing or measuring device.

(3) The bureau does not guarantee the work or fair dealing of a registered serviceperson or registered service agency.

(4) The bureau shall maintain and make public a list of registered servicepersons and registered service agencies. (History: 30-12-202, MCA; IMP, 30-12-202, MCA; NEW, 2005 MAR p. 445, Eff. 4/1/05.)

Rules 24.351.1102 and 24.351.1103 reserved

24.351.1104 INDIVIDUAL APPLICANTS FOR REGISTRATION

(1) An individual qualified by training or experience may

apply for voluntary registration to service weighing devices or measuring devices. The applicant shall use the application form supplied by the bureau. The form must be signed by the applicant.

(a) The applicant must certify that the individual:

(i) is fully qualified to install, service, repair or recondition whatever devices for the service of which competence is being registered;

(ii) has in possession, or available for use, all necessary testing equipment and standards; and

(iii) has full knowledge of all appropriate weights and measures laws, rules and regulations.

(b) The individual applicant shall submit appropriate evidence or references demonstrating the applicant's qualifications. The bureau may independently verify the qualifications of each individual applicant.

(2) An individual applicant must have available sufficient standards and equipment to adequately test devices as set forth in the notes section of each applicable code in NIST Handbook 44, 2005 edition, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices." The equipment must meet the applicable specifications of:

(a) NIST Handbook 105-1, "Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures, Specifications and Tolerances for Field Standard Weights (NIST Class F)";

(b) NIST Handbook 105-2, "Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures, Specifications and Tolerances for Field Standard Measuring Flask"; or

(c) NIST Handbook 105-3, "Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures, Specifications and Tolerances for Graduated Neck Type Volumetric Field Standards".

(3) Each individual applicant shall complete and pass a written test to determine the applicant's knowledge of the appropriate weights and measures laws, rules and regulations prior to the issuance by the bureau of the initial certificate of registration.

(a) Subsequent testing may be necessary due to changes in weights and measures laws and rules. Such testing shall be given whenever deemed necessary by the bureau. If such subsequent testing is appropriate, the bureau shall provide notice to registered servicepersons of the subsequent testing prior to the time of the next renewal of the certificate of registration.

(4) There is a \$25 fee for registration as a serviceperson.

(5) Upon verification of an individual applicant's qualifications and the applicant successfully passing the examination, the bureau will issue a "certificate of registration" and assign a registration number to the individual.

(6) A certificate of registration expires on December 31,

unless revoked earlier for good cause. (History: 30-12-202, MCA; IMP, 30-12-202, MCA; NEW, 2005 MAR p. 445, Eff. 4/1/05.)

Rules 24.351.1105 and 24.351.1106 reserved

24.351.1107 AGENCY APPLICANTS FOR REGISTRATION (1) An entity may apply for voluntary registration as a registered service agency. The applicant shall use the application form supplied by the bureau. The form must be signed by the chief executive officer or manager of the applicant.

(2) The agency applicant must:

(a) certify that it has, or has available to it, sufficient standards and equipment to adequately test devices. The standards and equipment must conform with the requirements identified in ARM 24.351.1104;

(b) describe the standards and equipment it will use; and

(c) employ at least one individual who is a registered serviceperson, whose registration is recognized in Montana. The applicant must identify each registered serviceperson it employs who intends to work in Montana.

(3) The bureau may independently verify that the standards and equipment described in the application meet the appropriate standards.

(4) There is a \$25 fee for registration as a service agency.

(5) Upon verification of an applicant's qualifications, the bureau will issue a "certificate of registration" and assign a registration number to the service agency.

(6) A certificate of registration expires on December 31, unless revoked earlier for good cause.

(7) A registered service agency must provide the bureau with a written list of the name of each registered serviceperson it employs. The list must be promptly updated by the registered service agency whenever it adds or loses a registered serviceperson in its employ. (History: 30-12-202, MCA; IMP, 30-12-202, MCA; NEW, 2005 MAR p. 445, Eff. 4/1/05.)

Rules 24.351.1108 through 24.351.1110 reserved

24.351.1111 PRIVILEGES AND OBLIGATIONS OF A CERTIFICATE HOLDER (1) An individual who holds a "certificate of registration":

(a) has the authority to remove an official rejection tag or mark placed on a weighing or measuring device by the authority of the bureau;

(b) may place in service, until such time as an official examination can be made, a weighing or measuring device that has been officially rejected; and

(c) may place in service, until such time as an official examination can be made, a new or used weighing or measuring device.

(2) A registered serviceperson or registered service agency may not use, in servicing commercial weighing or measuring devices, any standards or testing equipment that have

not been certified by the bureau. Equipment calibrated by another state's weights and measures laboratory that can show traceability to the national institute of standards and technology will also be recognized as equipment suitable for use by registered servicepersons or registered service agencies in this state.

(3) A registered serviceperson or registered service agency is responsible for installing, repairing and adjusting devices such that the devices are adjusted as closely as practicable to zero error.

(4) Each registered serviceperson and registered service agency shall execute a "placed-in-service" report when a device is placed in service. The "placed-in-service" report must be on a form provided by the bureau. Such a form must:

(a) be executed in duplicate;  
(b) include the assigned registration number; and  
(c) be signed by the registered serviceperson responsible for each:

(i) rejected device restored to service; or  
(ii) newly installed device placed in service.

(5) Within 24 hours after a device is restored to service, or placed in service, the original of the properly executed placed-in-service report, together with any official rejection tag removed from the device, must be mailed to the bureau at the Department of Labor and Industry, Weights and Measures Bureau, P.O. Box 200516, Helena, Montana 59620-0516. The duplicate copy of the report must be given to the owner or operator of the device. (History: 30-12-202, MCA; IMP, 30-12-202, MCA; NEW, 2005 MAR p. 445, Eff. 4/1/05.)

Rules 24.351.1112 through 24.351.1114 reserved

#### 24.351.1115 RENEWAL OF CERTIFICATE OF REGISTRATION

(1) An existing certificate of registration may be renewed annually by a qualified individual or agency upon payment of the applicable renewal fee:

(a) serviceperson	\$25.00
(b) service agency	25.00
(c) late renewal fee	12.50

(2) A registered serviceperson and a registered service agency shall submit, at least biennially, to the bureau for examination and certification, any standards and testing equipment that are used, or are to be used, in the performance of the service and testing functions with respect to weighing and measuring devices for which competence is registered. Failure to timely submit suitable standards and testing equipment may disqualify the individual or agency from renewing the certificate of registration.

(3) Renewals received by the bureau 30 days past the due date are subject to a late fee. (History: 30-12-202, MCA; IMP, 30-12-202, MCA; NEW, 2005 MAR p. 445, Eff. 4/1/05.)

Rule 24.351.1116 reserved

24.351.1117 REGISTRATION BY RECIPROCITY (1) The bureau may enter into a reciprocal agreement with any other state(s) that has similar voluntary registration policies. Under such an agreement, a registered serviceperson and a registered service agency from any state that is party to the reciprocal agreement is granted full reciprocal authority, including reciprocal recognition of standards and testing equipment, in all states that are a party to such an agreement. (History: 30-12-202, MCA; IMP, 30-12-202, MCA; NEW, 2005 MAR p. 445, Eff. 4/1/05.)